

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Form 16. Circuit Rule 27-3 Certificate for Emergency Motion

Instructions for this form: <http://www.ca9.uscourts.gov/forms/form16instructions.pdf>

9th Cir. Case Number(s) 21-55852

Case Name Little Orbit, LLC vs Descendent Studios, Inc./Eric Peterson

I certify the following:

The relief I request in the emergency motion that accompanies this certificate is:

A stay of the District Court's Order Dated July 27, 2021, which denied Little Orbit's Motion to Set Aside a Binding Settlement Terms Sheet ("BSTS") and granted Defendants/Appellees DESCENDENT STUDIOS INC. and ERIC PETERSON's subsequently filed Second Motion to Enforce the BSTS without even waiting for Little Orbit to submit a response.

Relief is needed no later than *(date)*: ASAP but at least by September 21, 2021

The following will happen if relief is not granted within the requested time:

A ruling on Appellant's Emergency Motion is needed as soon as possible but not later than September 21, 2021, as Defendants have already threatened "Descendent will be terminating the BSTS and the IP license contained therein for material breach based on Little Orbit not complying with the Court order" and September 21, 2021, is when the next payment is due under the BSTS. If Little Orbit's rights are terminated, Little Orbit will lose its right to complete the development of the at issue video game and will lose the over two million dollars it has already invested in the game's development. A stay is needed to maintain the status quo pending the outcome of this appeal.

I could not have filed this motion earlier because:

Defendant's counsel is a solo practitioner and this Motion is being filed as soon as practicable following Defendant's threat to try to enforce the at issue Court Order given the matters in issue, the work involved in putting together this motion and the demands of other matters.

I requested this relief in the district court or other lower court: ☐ Yes ☒ No

If not, why not:

Appellant did not seek a stay from the District Court given there was no practical way to present such a Motion to the District Court, which would have surely been denied, and then pursue such a Motion before this Court before Defendants could seek termination of the at issue license.

I notified 9th Circuit court staff via voicemail or email about the filing of this motion: ☒ Yes ☐ No

If not, why not:

I have notified all counsel and any unrepresented party of the filing of this motion:

On *(date)*: August 10, 2021

By *(method)*: Via Telephone Conference

Position of other parties: Oppose

Name and best contact information for each counsel/party notified:

Michael C. Whitticar; VSB No. 32968 (admitted pro have vice)
NOVA IP Law, PLLC
7420 Heritage Village Plaza, Suite 101
Gainesville, VA 20155
Telephone: (571) 386-2980
Facsimile: (855) 295-0740
Email: mikew@novaiplaw.com

I declare under penalty of perjury that the foregoing is true.

Signature s/ M. Danton Richardson

Date August 24, 2021

(use "s/[typed name]" to sign electronically-filed documents)

Feedback or questions about this form? Email us at forms@ca9.uscourts.gov

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Form 15. Certificate of Service for Electronic Filing

Instructions for this form: <http://www.ca9.uscourts.gov/forms/form15instructions.pdf>

9th Cir. Case Number(s) Appeal No. 21-55852

I hereby certify that I electronically filed the foregoing/attached document(s) on this date with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit using the Appellate Electronic Filing system.

Service on Case Participants Who Are Registered for Electronic Filing:

I certify that I served the foregoing/attached document(s) via email to all registered case participants on this date because it is a sealed filing or is ☒ submitted as an original petition or other original proceeding and therefore cannot be served via the Appellate Electronic Filing system.

Service on Case Participants Who Are NOT Registered for Electronic Filing:

I certify that I served the foregoing/attached document(s) on this date by hand ☐ delivery, mail, third party commercial carrier for delivery within 3 calendar days, or, having obtained prior consent, by email to the following unregistered case participants (*list each name and mailing/email address*):

Description of Document(s) (*required for all documents*):

Form 16. Circuit Rule 27-3 Certificate for Emergency Motion

Signature s/ M. Danton Richardson

Date August 24, 2021

(*use "s/[typed name]" to sign electronically-filed documents*)

Feedback or questions about this form? Email us at forms@ca9.uscourts.gov